

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

WILLIAM McAFFEE,)
)
Plaintiff,) Cause No.: 4:12-cv-1667
)
v.)
)
ALLSTATE PROPERTY & CASUALTY)
INSURANCE COMPANY)
)
Defendant.)

MOTION FOR SANCTIONS

COMES NOW Defendant, Allstate Property & Casualty Insurance Company, by and through the undersigned counsel, and for its Motion for Sanctions, states as follows:

1. Per the Court's Rule 16 Order, Plaintiff's Rule 26 Disclosures were due on November 16, 2012.
2. Plaintiff was aware of the Case Management Order, and as such, had knowledge of the due date for the Rule 26 Disclosures. (See Correspondence, attached hereto as Exhibit A).
3. On December 5, 2012, Defendant served Plaintiff with its first interrogatories and request for production of documents.
4. On multiple occasions, Defendant sent letters to Plaintiff, as well as several phone calls, in an effort to resolve the discovery dispute.
5. However, Defendant did not receive any response to the letters, nor did Plaintiff return any of Defendant's phone calls.
6. On February 12, 2013, Defendant filed its Motion to Compel directed to Plaintiff.

7. A hearing was held on the motion on March 12, 2013, and the Court ordered Plaintiff to provide Defendant with Plaintiff's Rule 26 Disclosures and answers/responses to Defendant's discovery by March 19, 2013.
8. Plaintiff failed to produce his Rule 26 Disclosures and answers/responses to Defendants' discovery by March 19, 2013.
9. As such, Defendant filed a Motion for Sanctions on March 26, 2013 requesting the Court to dismiss the case with prejudice.
10. On April 16, 2013, Plaintiff provided Defendant with his Rule 26 Disclosures and answers/responses to Defendant's written discovery.
11. Upon receipt, Plaintiff's Rule 26 Disclosures were five months overdue and Plaintiff's answers/responses to Defendant's written discovery were three months overdue.
12. On May 8, 2013, Judge Shaw entered an order awarding attorney's fees incurred as a result of preparing Defendant Allstate's Motion for Sanctions and Amendment of the Scheduling Order, as well as Defendant's Proposed Scheduling Order. (See Order, docket #31).
13. In the course of preparing its Motion for Sanctions and Amendment of the Scheduling Order and its Proposed Scheduling Order, Allstate incurred attorney's fees in the amount of \$565.50 (Five hundred and sixty-five dollars and fifty cents).
14. On May 28, 2013, Judge Shaw entered an order requiring Plaintiff's attorney to pay Defendant Allstate the sum of \$565.50 by June 28, 2013.
15. Additionally, the Order required Plaintiff to file a written notice with the court regarding his compliance with said Order. (See order document #35).
16. To date, Defendant has yet to receive the court ordered sanctions from Plaintiff.

17. Given Plaintiff's refusal to pay Defendant Allstate the sum of \$565.50 by June 28, 2013, and his violation of the Court's Order, sanctions are appropriate.

WHEREFORE Defendant respectfully requests this Court to enter sanctions against Plaintiff including, but not limited to, striking Plaintiff's pleadings or dismissing this action with prejudice, for monitory relief, including Defense fees and costs, and for such other and further relief as deemed just and proper under the circumstances.

Respectfully submitted,

BROWN & JAMES, P.C.

/s/ Jonathan B. Morrow

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CERTIFICATE OF SERVICE

A true and accurate copy of the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system this 12th day of July, 2013, to: **Mr. Joseph K. Robbins**, 906 Olive Street, Suite 1125, St. Louis, Missouri 63101, jkrobbins@robbinslawstl.com, *Attorney for Plaintiff*.

/s/ Jonathan B. Morrow

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